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of liquidation and the protection of assets. In this respect it is urged that the English law might well be a model for future legislative action in the United States.

P. R. B.

A General Survey of Events, Sources, Persons, and Movements in Continental Legal History. By various European authors. Little, Brown & Co., Boston. 1912. pp. li, 754. \$6.00.

The phrasing of this prolix title was apparently adopted because the work is but a partial study of Continental legal history, and wholly excludes that of Slavic, Byzantine, or Hungarian law.

In a thoughtful introduction, Mr. Justice Oliver Wendell Holmes warmly welcomes this new effort made with the particular purpose to show how much American law owes to Continental Europe. That law presented itself, he says, fifty years ago, "as a rag-bag of details," (xlvii). There was no insistence on "the universal change of emphasis that each century brings along. The importance of reported cases was exaggerated. They," he adds, "are apt to be only the small change of legal thought. They represent the compromise of the moment, between tradition and precedent, on the one side, and the free conception of the desirable, on the other."

The scheme of this volume is to piece together, occasionally after some condensation, bits of chapters, and groups of chapters, from different authors, in such manner as to make, in the main, a connected story. It is a mosaic picture. In this way, some of the best things in the best works have been brought together, as, for instance, Maitland's observation, in his Prologue to a History of English Law, that "a world without the Digest would not have been the world that we know," and Baudonin's "*Sine historia caecam esse jurisprudentiam*," (p. 254).

The varying sources to which resort has been had in different ages for ascertaining what has been called Natural Law are well discussed, (178-187, 407), particularly in the chapters taken from Calisse's History of Italian Law; and due emphasis is given to Kant's declaration of the Rights of Man, and that "law is merely the sum of those conditions which insure that the liberty of one man shall not interfere with the exercise of corresponding liberty by another man," (pp. 182, 196).

The genesis of the modern European codes receives particular attention. One of the best summaries of the spirit of those of a hundred years ago is given, in Part V, by Professor Van Hamel of Amsterdam: "No customary, no local law, no judge-made law, was to be recognized; the official codes were to provide for everything. For this ideal the legislators were ready to make two great sacrifices. They would sacrifice the close contact existing between the law system and the national, social life of the country; and they would give up the means of securing a gradual and easy evolution of the law in the future," (p. 476).

A chapter of particular value is that on the Church, abridged from a treatise by the late Professor Brissaud of the University of Toulouse. In discussing the influence of the Church on penology, he dwells on the ecclesiastical theory that criminal punishment is of two kinds: *Pœna vindicativa*, an evil inflicted by society, as the servant of God, in the name of God, to restore the supernatural order of things by enforced expiation, and the other, *Pœna medecinalis*, or *Censura*, a means of bettering the wrong-doer. The invention of a public prosecutor he credits to the Church of the thirteenth century. The "Holy Inquisition" was the best remembered instance of it, but the principle was that to investigate reports or rumors of criminal conduct, and, if found verified, to proceed against the offender, constituted a public duty (p. 722). This made greatly for the protection of the weak, and the lessening of private feuds.

The modern tendency to legislate for the protection of collective interests is treated as wholly inconsistent with the principles of the French revolution. These were individualistic, even to the extent of refusing liberty of association (p. 297). The State was all-embracing. Now it shares its powers, as of course, with local authorities, and is ready to extend collective franchises to groups of private individuals, with a free hand.

Such a work as this is necessarily fragmentary, and that to which reference has just been made is almost the only mention of the rise of private corporations. Municipal charters receive somewhat more, but still slight consideration (See pp. 159, 222, 327).

The editors have shown good judgment in selecting the material, and the few chapters which are original contributions add much to the cohesiveness and literary finish of the whole.

S. E. B.